

EXECUTIVE SECRETARIAT
ROUTING SLIP

TO:

		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	EXDIR				
4	D/ICS				
5	DDI				
6	DDA		✓		
7	DDO				
8	DDS&T				
9	Chm/NIC				
10	GC		✓		
11	IG				
12	Compt		✓		
13	D/Pers				
14	D/OLL				
15	D/PAO				
16	SA/IA				
17	AO/DCI				
18	C/IPD/OIS				
19					
20					
21					
22					
	SUSPENSE				

Date

Remarks

3637 (10-81)

8/1/84
Date

STAT

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548**

5083

FILE: B-214805

DATE: July 30, 1984

MATTER OF: Eastern Trans-Waste Corp.

DIGEST:

1. Agency is not required to set aside a procurement for refuse collection services for small business concerns pursuant to Defense Acquisition Regulation § 1-706.1(f) where a different agency had previously acquired these services on the basis of a small business set-aside.
2. Agency is not required to separately purchase services where the agency's overall needs can be most effectively provided through a "total package" procurement approach involving award of the total requirement to one prime contractor in view of the relatively small size of the agency's contracting staff.

Eastern Trans-Waste Corp. (Eastern) protests the Central Intelligence Agency's (CIA) request for proposals (RFP) No. 84-(PMS)001 for maintenance and operation (M&O) of electronic systems as well as refuse collection and janitorial services at CIA Headquarters.

We deny the protest.

Prior to a recent agreement between the CIA and the General Services Administration (GSA) providing that the CIA has sole responsibility for procuring services of the type to be procured under the instant RFP, GSA had procured all such services. Thus, Eastern was awarded a contract by GSA in 1983 pursuant to a procurement set-aside for small business for refuse collection at CIA Headquarters. Eastern now contends that since the refuse collection services were previously procured successfully on the basis of a small business set-aside, the CIA must procure the refuse collection services by means of a small business set-aside pursuant to Defense Acquisition Regulation (DAR) § 1-706.1(f), reprinted in 32 C.F.R. pts. 1-39 (1983).

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Eastern also asserts that the CIA should procure the refuse collection services separately from the other services. Eastern further argues that the CIA should conduct the instant procurement on a formally advertised, rather than a negotiated, basis and raises questions concerning the CIA's contracting authority.

DAR § 1-706.1(f) provides in pertinent part:

"Once a product or service has been acquired successfully by a contracting office on the basis of a small business set-aside, all future requirements of that office for that particular product or service not subject to simplified small purchase procedures shall be acquired on the basis of a repetitive set-aside." (Emphasis added.)

While the DAR does not apply to the CIA as a nonmilitary agency, see DAR § 1-102, the CIA states that it follows the DAR "to the maximum practicable extent." Cf. Richardson Camera Co. v. United States, 467 F.2d 491 (Ct. Cl. 1972). Accordingly, we consider DAR § 1-706.1(f) to be applicable here.

However, by the express terms of DAR § 1-706.1(f) repetitive set-asides are mandated only where the same contracting office has previously procured the particular service by set-aside. Here, GSA acquired refuse collection services from Eastern on the basis of a small business set-aside, but now the CIA is procuring those services and others under one solicitation. Therefore, we cannot agree with Eastern that DAR § 1-706.1(f) controls the instant procurement. Accordingly, the CIA was not required to set aside the instant RFP for small business concerns under that regulation.

Concerning Eastern's contention that the CIA should procure refuse collection services separately from M&O and janitorial services, Eastern asserts that refuse collection firms carry out separate and distinct functions from firms providing the other services, thus requiring any firm awarded the contract by the CIA for housekeeping purposes to subcontract the refuse collection services. Eastern also claims that government agencies have uniformly found procurement of each service separately to be satisfactory,

and that separate procurements increase the access to competition by small businesses.

The CIA states that it determined that procurement by means of a total package approach would be more effective because it lacks the staff that GSA had to administer the contracts. Specifically, the CIA asserts that GSA had its own crafts and labor force which could undertake much of the M&O work itself, while the CIA lacks that capability. The CIA also states that, under the total package approach, services will be provided by a single prime contractor directly responsible to the CIA who can secure its own subcontractors and the contract can be more effectively administered by the CIA's relatively small staff.

Generally, it is for the contracting agency to determine whether to procure by means of a total package approach rather than by separate procurements for divisible portions of the total requirement. In the absence of clear evidence that such determinations lack a reasonable basis, they will not be disturbed by this Office. Ronald Campbell Company, B-196018, Mar. 25, 1980, 80-1 C.P.D. ¶ 216.

In the instant case, the CIA argues that procurement by means of a total package approach will be more effective than separate procurements because the CIA's relatively small staff is better suited to administering a single prime contractor who secures its own subcontractors than several contractors. Eastern has provided no evidence to show that the CIA's staff can administer several contractors as effectively as one prime contractor. Accordingly, we cannot conclude that the CIA's determination to procure by means of a total package approach lacks a reasonable basis.

Since we have concluded that the CIA was not required to break out the refuse collection services and procure them under a small business set-aside, it is not necessary to address the advertising versus negotiation issue, and other issues concerning the CIA's contracting authority, raised by Eastern.

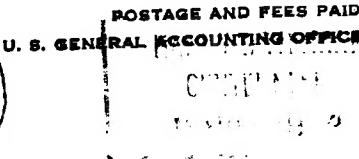
The protest is denied.

Milton J. Sowles
for Comptroller General
of the United States

Approved For Release 2008/11/04 : CIA-RDP86M00886R001800110004-0

COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

OFFICIAL BUSINESS



Admiral William Casey
Director
Central Intelligence Agency
Washington, D.C. 20505

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